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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,472	08/05/2008	Fumito Hirano	90606.613/ym	1659
54071	7590	02/16/2011		
YAMAHA C/O KEATING & BENNETT, LLP 1800 Alexander Bell Drive SUITE 200 Reston, VA 20191			EXAMINER SCHARICH, MARC A	
			ART UNIT 3611	PAPER NUMBER
			NOTIFICATION DATE 02/16/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/597,472	<b>Applicant(s)</b> HIRANO ET AL.	
	<b>Examiner</b> MARC A. SCHARICH	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/26/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-16 and 18-25 is/are rejected.
- 7) ☒ Claim(s) 17 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/26/2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Drafts, Person's Patent Drawing, Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)  | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/26/2006; 9/18/2008 and 9/30/2009</u> .                       | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. The specification is *objected to* because of the following informalities:

**Page 6, Para [0033], 11<sup>th</sup> Line**

“fuel pump 45” should be -- fuel pump 42 --

**Page 7, Para [0034], 3<sup>rd</sup> Line**

“fuel pump 45” should be -- fuel pump 42 -- and “the horizontal direction C” should be -- a horizontal plane C --

**Page 7, Para [0036], 2<sup>nd</sup> - 3<sup>rd</sup> Lines**

“(i.e., the fuel pump 42 with its pump axis A extending generally in the transverse direction)” should be -- (i.e., the fuel pump 42 with its pump axis A extending generally in the transverse direction relative to the longitudinal direction of the vehicle) --

**Page 7, Para [0037], 2<sup>nd</sup> - 3<sup>rd</sup> Lines**

“a generally horizontal direction C in a location” should be -- the generally horizontal plane C at a location --

### *Drawings*

2. The drawings are *objected to* because they contain the following informalities:

**Figures 1 and 3**

The label “Horizontal direction C” should be -- Horizontal Plane C --

Art Unit: 3611

**Figure 3**

Reference numeral “42c” (*leading to the “fuel hose connecting portion”*) should be

-- 42e --

**Figures 10 and 11**

Reference numeral “35” is *incorrect*, as it is not leading to “cap nuts”, which are supposed to correspond to reference numeral “35”

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. **Claims 12, 18, 19 and 24** are *objected to* because of the following informalities:

#### **Claim 12**

(Line 5): "lower a forward portion" should be -- lower than a forward portion --

#### **Claim 18**

(Line 4): "said fuel pump" should be -- said fuel pump assembly --

#### **Claim 19**

(Line 1): "comprising" should be -- comprises --

(Line 3): "lower a forward portion" should be -- lower than a forward portion --

#### **Claim 24**

(Line 1): the status identifier "(New)" *should have been* included in claim 24

(Line 3): "can close said opening" should be -- can close said pump attaching opening --

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 11-16, 18, 19 and 21-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Nakashima et al., U.S. Patent No. 6,182,640.

Nakashima et al. discloses a straddle type vehicle [*motorcycle*] (Fig. 2) comprising *at least* a frame assembly [*main frame*] (14), a fuel tank (1) straddling

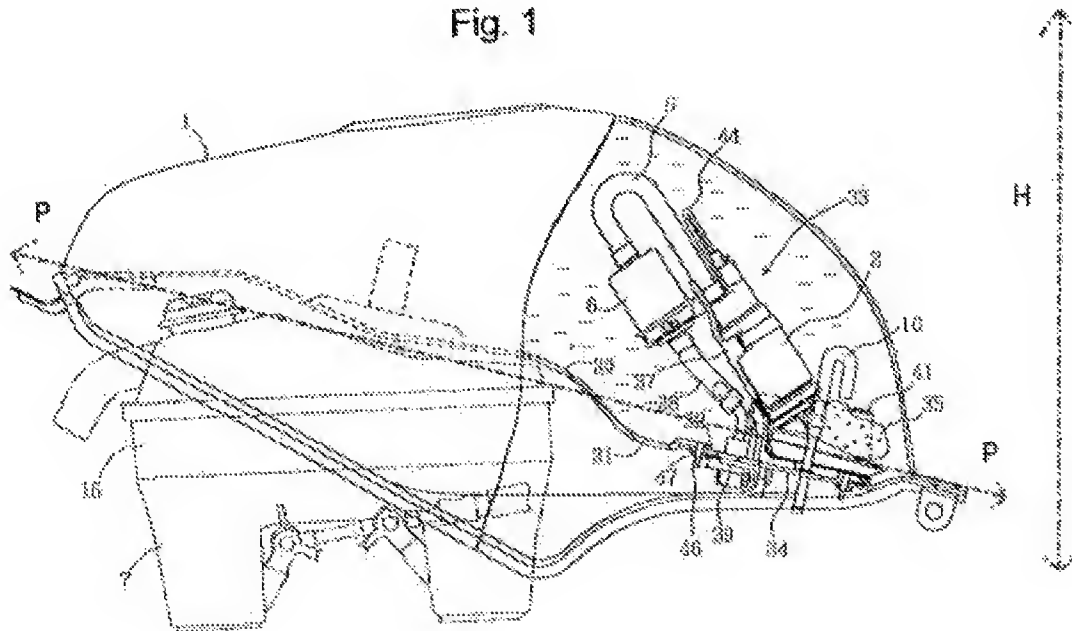
Art Unit: 3611

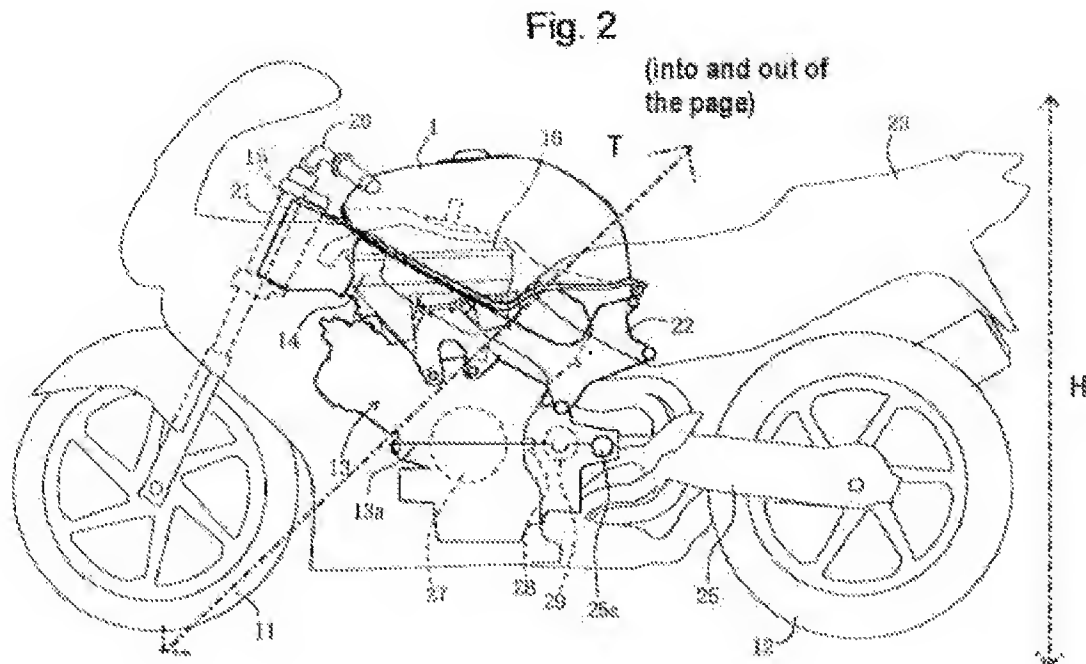
[*extending overtop and covering*] the frame assembly (14) in a transverse [*side-to-side*] direction (T) [*extending into and out of the page*] relative to a vertical height direction (H) of the vehicle [*see included Figs. 1 and 2 below*], a fuel pump assembly (33) extending into/inside the fuel tank (1) (Fig. 1), the fuel tank (1) comprising a generally horizontal [*flat*] rear surface portion [*part*] (31) formed on a bottom (30) of the fuel tank (1) (Fig. 1) {also see Col. 3, Lines 29-33}, and the fuel pump assembly (33) being mounted to the generally horizontal rear surface portion (31) with a “pump axis” (P) [*see included Figs. 1 and 2 below*] of a strainer (4) (Fig. 3) of the fuel pump assembly (33) extending “generally horizontally”; wherein the frame assembly (14) comprises a frame component [*main frame structure*] that extends at an angle downward and rearward (Fig. 2) such that a rear portion of the frame component [*main frame structure*] is lower than a forward portion of the frame component [*main frame structure*] (see Fig. 2), and the fuel pump assembly (33) is positioned in a rearward portion of the fuel tank (1) (Fig. 1); wherein the fuel pump assembly (33) is positioned in the fuel tank (1) with the “generally horizontally” extending pump axis (P) [*see included Figs. 1 and 2 below*] of the fuel pump assembly (33) also extending “generally transverse” relative to the height direction (H) of the vehicle; and wherein the fuel tank (1) comprises a pump attaching opening (32) defined in at least the generally horizontal rear surface portion (31) and a size of the pump attaching opening (32) is minimized while permitting insertion of the fuel pump assembly (33) into the fuel tank (1) (Fig. 1); wherein the pump attaching opening (32) comprises an elongated configuration [*the opening (32) is covered by a corresponding generally elongated/circular-shaped base plate (34), which is discussed*

Art Unit: 3611

*below*]; wherein the fuel pump assembly (33) comprises a generally elongated/circular-shaped attaching portion [*base plate*] (34) (Fig. 5) and the attaching portion (34) is sized slightly larger than the pump attaching opening (32) such that the attaching portion (34) can close and seal off the pump attaching opening (32) (Fig. 1); and wherein the fuel pump assembly (33) further comprises a fuel pump (2) and the attaching portion [*base plate*] (34) is positioned under [*projected underneath*] only a portion [*approx 7/8*] of the fuel pump (2) (Fig. 3).

Fig. 1





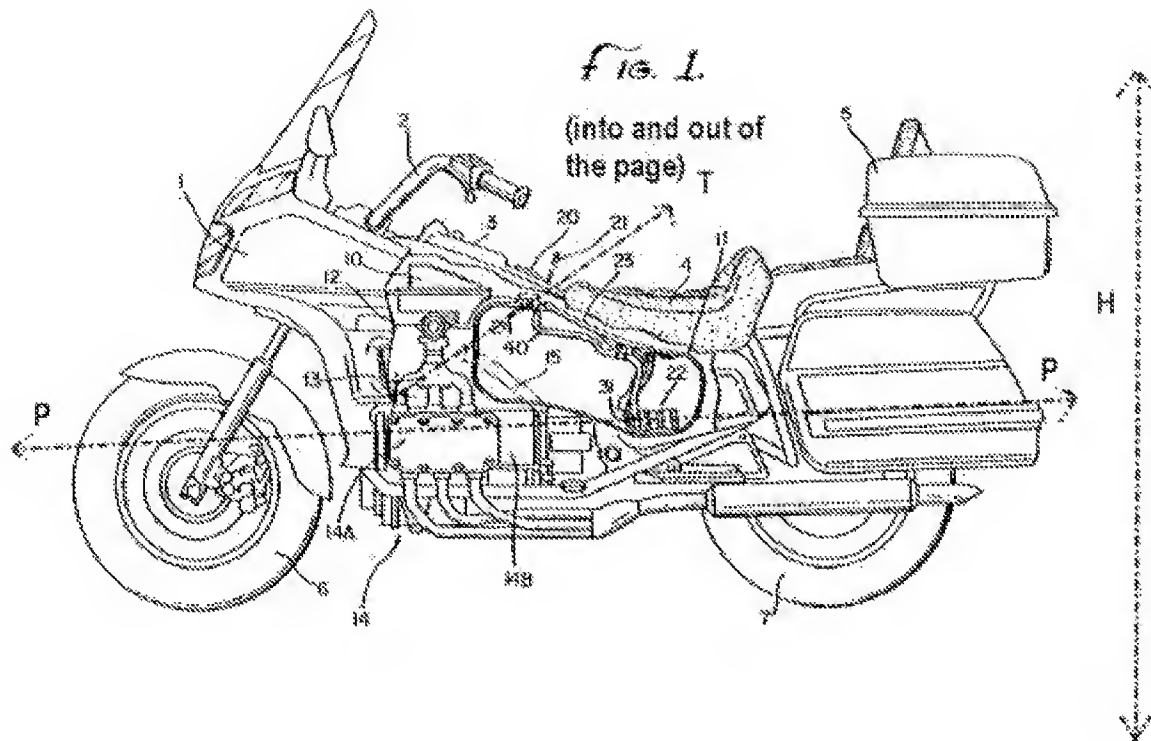
**Claims 11-14 and 18-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al., U.S. Patent No. 4,871,041.

Saito et al. discloses a straddle type vehicle [*motorcycle*] (Fig. 1) comprising at least a frame assembly [*overall vehicle body*] (unnumbered) which further comprises at least a frame component [*frame element*] (15) [*further described below*], a fuel tank (11) straddling the frame assembly in a transverse [*side-to-side*] direction (T) [*extending into and out of the page*] relative to a vertical height direction (H) of the straddle type vehicle [*see included Fig. 1 below*], a fuel pump assembly [*pump unit*] (22) extending within the fuel tank (11) (Figs. 1 and 2), the fuel tank (11) comprising a generally horizontal [*flat*] rear surface portion formed on a bottom of the fuel tank (11) (Fig. 2), and the fuel pump assembly (22) being mounted to the generally horizontal rear surface portion [*at (31b)*]



Art Unit: 3611

(Fig. 2) and having a central “pump axis” (P) [*see included Fig. 1 below*] of the fuel pump assembly (22) extending “generally horizontally”; wherein the fuel tank (11) further comprises an opening [*supply port*] (16) which appears to be capable of receiving the fuel pump assembly (22) therethrough due to the fuel pump assembly (22) being cylindrically shaped and apparently small enough to enter inside of the fuel tank (11) (Fig. 4); wherein the opening (16) of the fuel tank (11) further comprises an “elongated configuration” [*mating cap (17) for covering the supply port (16) contains an elongated handle*] (Fig. 3); wherein the frame component (15) of the frame assembly extends at an angle downward and rearward (Fig. 1) such that a rear portion of the frame component (15) is lower than a forward portion of the frame component (15) (Fig. 1), and the fuel pump assembly (22) is positioned in a rearward portion of the fuel tank (11) (Fig. 2); wherein the fuel tank (11) comprises a recessed forward portion [*bifurcated shape*], the frame component (15) of the frame assembly extending centrally alongside [*within*] the recessed forward portion such that the fuel tank (11) straddles the frame component (15) (Fig. 1) {also see Col. 3, Lines 11-14}, and the fuel pump assembly (22) is positioned rearward of the recessed forward portion of the fuel tank (11) [*the pump unit (22) is positioned well behind where frame element (15) is straddled by the fuel tank (11)*] (Fig. 1); and wherein the fuel pump assembly (22) is positioned in the fuel tank (11) with the “generally horizontally” extending pump axis (P) [*see included Fig. 1*] of the fuel pump assembly (22) also extending “generally transverse” relative to the height direction (H) of the straddle type vehicle.



### ***Allowable Subject Matter***

5. **Claims 17 and 26** are *objected to* as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: the prior art cited on form PTO-892 relates to fuel tanks on straddle type vehicles (*such as motorcycles*) having fuel pump assemblies disposed at least partially within the fuel tanks.

Art Unit: 3611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC A. SCHARICH whose telephone number is (571) 272-3244. The examiner can normally be reached on M-F 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.A.S. - 2/10/2011

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